

Appl. No. : 10/807,643
Filed : March 23, 2004

REMARKS

This Amendment is in response to the Office Action mailed July 5, 2005 in the above captioned application.

In the Office Action, Claims 1-18 and 20-42 were rejected over the prior art as discussed below.

In this Amendment, Claims 1-18 and 20-22 have been cancelled. Claims 23 and 30-32 have been amended. Claims 23-42 thus stand pending following entry of the foregoing amendments.

Information Disclosure Statements

Applicants note that Information Disclosure Statements were filed on June 22, 2005 and October 5, 2005. It is not clear whether the June 22 Statement reached the Examiner before the July 5 Office Action was complete. Applicants request that the Examiner indicate that both of these Statements have been considered in the next paper.

Objections To The Specification

The Specification stands objected to under 37 C.F.R. § 1.175(d)(1) as failing to provide adequate antecedent basis for the limitation “to extend axially into and expandably circumscribe at least one-half of the main vessel wall when the scaffold is implanted in the branch lumen with said one end adjacent the os” of Claim 1 and for the language “to circumscribe at least a portion of the main vessel wall and open a passage through the anchors,” which the Examiner suggests is a limitation of Claims 11, 23, and 32.

Applicants initially note that Claims 1 and 11 have been canceled, making the objections in connection with these claims moot. Also, the “to circumscribe...” language objected to by the Examiner is not a limitation of Claim 23. Claim 23 contains the language objected to in connection with Claim 1 and thus paragraph [0013] has been amended to clarify the antecedent basis for Claim 23 under 37 C.F.R. § 1.175(d)(1).

Applicants refer the Examiner to paragraph [0018], which is one location in the specification that provides antecedent basis under 37 C.F.R. § 1.175(d)(1) for the “to circumscribe...” limitation of Claim 32.

Thus, Applicants respectfully request that the objections to the specification be withdrawn.

Rejections Under 35 U.S.C. § 102(b)

Claims 1, 2, 5-10, 12-17, 23-24, and 27-41 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,096,071 to Yadav. Of these, only Claims 23-24 and 27-41 remain pending after entry of this amendment. Claim 23 has been amended to further define the pending claims over Yadav. The cancellation of Claims 1-18 and 20-22 and the amendment of Claim 23 do not constitute acquiescence in the rejections, but are made to expedite allowance of this application.

Amended Claim 23 and the claims that depend therefrom are not anticipated by Yadav. In order for a rejection under § 102(b) to be sustained, every element in the claim, in the same relationship as in the claim, must be disclosed in a single prior art reference. If even a single limitation in the claim is missing from the prior art reference, the rejection under §102 is improper and should be removed.

Here, Claim 23 contains at least one limitation that is not disclosed in Yadav. As a consequence, a rejection of Claim 23 and the claims that depend therefrom under §102(b) in view of Yadav would not be proper. For example, Yadav fails to disclose at least the following limitations of amended Claim 23:

A prosthesis ... comprising: a radially expansible scaffold having at least a first wall pattern; and at least two circumferential anchors extending axially from an end of the scaffold..., said prosthesis additionally having a region with a second wall pattern that is different from the first wall pattern, said second wall pattern permitting the anchors to both bend and rotate relative to the prosthesis.

To the contrary, Yadav discloses a stent 10 having four short flanges 12 to facilitate accurate positioning of the stent at an ostium of a branch vessel. As shown in Figure 3, the stent 10 has a single wall pattern from its proximal end to its distal end.

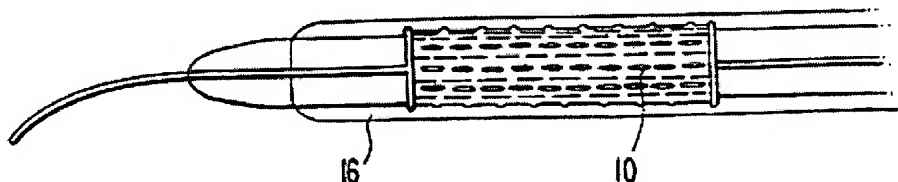
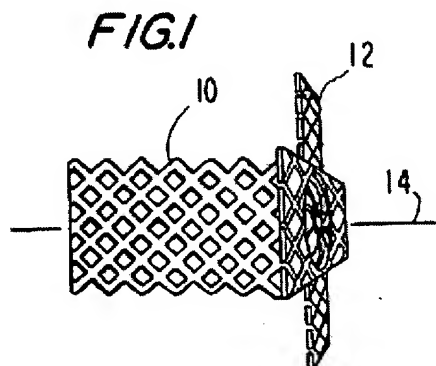


FIG. 3

Yadav's single wall pattern is consistent with a stated preference for forming the stent 10 of a continuous piece. See Column 2, lines 12-15. There is no basis in Yadav for modifying the

structure illustrated in Figure 3 to include multiple wall patterns at least because the short flanges 12 are required only to move from the position of Figure 3 to an extended position within the ostium. Yadav shows the extended position in Figure 1.



Yadav states that in the extended position the “the flared members 12 [are] at right angles to the longitudinal axis of the tubular stent body 14.” Column 4, lines 16-17. The movement from the unextended to the extended positions requires relatively little freedom of motion of the flanges 12. In contrast, the present application describes using a different wall pattern as one way to enable greater freedom of motion of an anchor. That region having a second wall pattern is desirable for Applicant’s intended use, but is nowhere disclosed in Yadav. To the contrary, to the extent the flanges 12 are intended to extend perpendicularly to anchor the stent 10, providing multiple wall patterns may unnecessarily complicate Yadav.

For at least these reasons, Claim 23 is allowable over Yadav. Claims 24-31 depend from and further define the invention defined in Claim 23. Thus, these claims should be allowed at least for the same reasons that Claim 23 should be allowed over Yadav. Allowance of Claims 23-31 over Yadav is respectfully requested.

Rejections Under 35 U.S.C. § 103(a)

Claims 3, 4, 18, 20-22, and 25-26 were rejected as obvious in view of Yadav as modified by U.S. Patent No. 6,770,092 to Richter. As discussed above, Claims 3, 4, 18, and 20-22 have been canceled. Claims 25 and 26 depend from Claim 23, which is allowable over Yadav, as discussed above. Richter does not address the shortcomings of Yadav, and thus does not change the analysis set forth above. Therefore, in addition to the arguments set forth in the *Amendment* of June 10,

2005 regarding the lack of motivation to combine Yadav and Richter, Claims 25 and 26 are allowable over Yadav and Richter at least for the same reasons they are allowable over Yadav.

Claims 32-41 were rejected as obvious in view of Yadav as modified by U.S. Patent Application Publication No. 2003/0114912 listing Sequin et al. as inventors. According to the Examiner, Sequin teaches that "a first vascular prosthesis for supporting blood vessels have been known to be utilized for deploying additional prosthesis through the lumens after the first has been implanted." The Examiner asserts that it would have been obvious, therefore, to take the Yadav device with an internal lumen opening and deploy a smaller second prosthesis through the lumen because "it would allow the surgeon to support angels [sic, angles] or bifurcated vessels in the location near the ostium."

As discussed above, Claim 32 has been amended. However, the amendment of Claim 32 does not constitute acquiescence in this rejection, but is made to expedite allowance of this application. Applicants respectfully submit that Sequin fails to disclose or suggest a modification to the Yadav procedure in a manner that would produce Applicants' claimed invention, and respectfully request allowance of amended Claim 32.

Sequin is directed to an endoprosthesis deployment system for treating vascular bifurcations. In connection with Figure 18, reproduced below, Sequin discloses a procedure wherein a second branch stent 13 is deployed in one of two branches and another stent 12 is deployed in the other branch, such that two branch vessels in the bifurcation are fully stented.

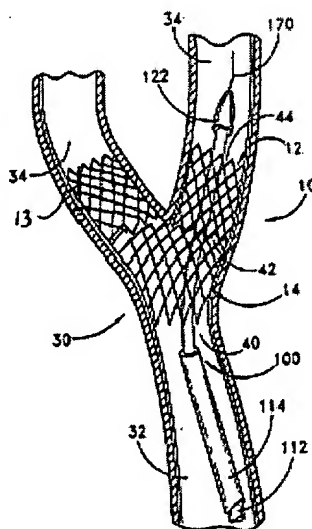


FIG. 18

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In this technique, a stent deployment catheter is transluminally advanced to the bifurcation, and may be advanced through the main vessel stent 14, which was implanted previously. The second branch vessel stent 13 is aligned in the second branch vessel with the distal end of the main branch stent 14. The second branch vessel stent 13 is then deployed, and the deployment catheter removed.

Sequin is therefore directed to a profoundly different stent system than Applicants' present claimed invention. For example, Sequin does not teach or suggest the use of an anchor extending proximally from a branch vessel stent and in particular fails to disclose the positioning of a prosthesis such that a scaffold lies within a branch vessel and at least two circumferential anchors extend into the main vessel. Sequin additionally fails to disclose circumferentially deforming any such anchors such that at least one of said anchors bends and rotates relative to the prosthesis.

To the contrary, Sequin discloses implantation of the main vessel stent first, and advancement of the branch vessel stent through the lumen of the main vessel stent. Nothing in Sequin would motivate a person of ordinary skill in the art to modify Yadav to provide one or more anchors that bend and rotate relative to the prosthesis, as discussed above.

Not only does the art of record fail to provide a motivation to one of skill in the art to combine the teaching of Yadav and Sequin in the manner suggested by the Examiner, it is apparent that even if such a combination of technologies were achieved, it would fail to disclose or suggest the structure or method of amended Claim 32.

As a consequence, Applicants respectfully submit that amended Claim 32 is neither disclosed nor suggested by the combination of Yadav and Sequin, and an indication of allowability of amended Claim 32 and dependent Claims 33-42 is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, the Examiner is cordially invited to contact the undersigned so that any such matter may be promptly resolved.

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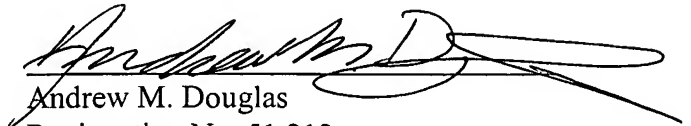
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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